

(ii) The proposed loan complies with WS and RCD program policies and procedures of both RUS and NRCS.

(iii) Security is adequate and the repayment plan is sound.

(iv) Funds requested are for authorized purposes.

(v) Actions are in compliance with requirements of applicable Federal and State laws.

(2) *Letter of conditions.* When the Rural Development State Director determines that the docket is complete and the proposed activity is feasible, he will prepare a proposed letter of conditions under which the application may be further processed. The letter will be delivered to and discussed with the applicant. Upon acceptance of the conditions the applicant will indicate intentions to meet the conditions by a letter of interest and the application will be further processed.

(3) *Legal review.* The complete docket and proposed letter of conditions will be forwarded to the Regional Attorney, OGC for review and preparation of closing instructions. If it is not possible to issue closing instructions at that time, the Regional Attorney, will issue a preliminary legal opinion commenting upon the applicants legal existence, authority to incur debt and give security for the WS loan, WS advance, or RCD loan requested and actions to be taken before closing instructions may be issued.

(4) *Authorization for approval.* When the Rural Development State Director receives closing instructions or a preliminary legal opinion for a WS loan, WS advance, or RCD loan that is not within his approval authority he will send this information along with the docket, the proposed letter of conditions, and a memorandum recommending approval to the National Office. A copy of his memorandum will be sent to the processing office. If the proposed action is within the Rural Development State Director's approval authority he need not submit the material listed in this paragraph (b)(4) to the National Office unless he wants review and comments before approval.

(c) *WS advance processing.* (1) When the Rural Development State Director has concurred with the NRCS State Conservationist in the inclusion of a

WS advance in a watershed plan, preparation of the advance docket can be initiated and will be processed in the same manner as for a WS loan. Where both a WS loan and WS advance are planned only one docket will be prepared to include both the WS loan and WS advance.

(2) If the advance appears to be sound and proper, the Rural Development State Director will send a proposed memorandum of concurrence to the NRCS State Conservationist. The memorandum will state that RUS concurs in the execution of a work of improvement agreement for which NRCS will obligate advance funds and that RUS will accept the proposed obligations of the applicant to repay the advance subject to conditions specified in or attached to the memorandum. These conditions will include all appropriate requirements in accordance with paragraph (b)(2) of this section and will specify compliance with closing instructions issued by the Regional Attorney. It will also indicate that preparation of the WS advance docket will be in accordance with paragraph (a) of this section.

(3) The Rural Development State Director and the NRCS State Conservationist will sign the memorandum of concurrence to NRCS when:

(i) It has been determined that funds for the advance will be obligated by NRCS; and

(ii) The WS advance docket, has been approved; and

(iii) Closing instructions have been issued by the Regional Attorney; and

(iv) The Rural Development State Director and NRCS State Conservationist have determined that the applicant can comply with all requirements of the letter of conditions and closing instructions.

§ 1781.18 Feasibility.

(a) Before WS loan, WS advance, or RCD loan is approved, a determination of feasibility will be made by the Rural Development State Director based upon a review of plans developed in cooperation with NRCS personnel. The feasibility determination must have the concurrence of the NRCS State Conservationist before a WS loan, WS advance, or RCD loan is approved.

(b) A written assessment of the project's feasibility will be made by the processing office, Architect/Engineer, and Program Chief in their recommendations or comments on the Project Summary. These should reflect concurrence of the respective NRCS personnel in counterpart positions with whom they cooperate in administering these programs.

§ 1781.19 Approval, closing, and cancellation.

(a) Approval and closing actions will be taken in accordance with the applicable provisions of part 1780 of this chapter and the following requirements have been met:

(1) The WS or RCD plan has been approved for operations by NRCS and the applicant is an official sponsoring or cosponsoring local organization for the plan as evidenced by being included in the list of sponsoring or co-sponsoring local organizations in the plan.

(2) Closing instructions or a preliminary legal opinion has been prepared by the Regional Attorney.

(3) The governing body of the applicant's sponsoring local organization has formally passed and approved the loan resolution.

(4) The Rural Development State Director and NRCS State Conservationist have determined that all planned actions can be carried out as proposed in the project plan and the docket.

(5) The NRCS State Conservationist and Rural Development State Director have mutually agreed on the priority to be given the WS loan or WS advance, or RCD loan. In making this determination, consideration will be given to the relative priority of the WS works of improvement or RCD measures to all other such work in the State and the anticipated availability of Federal and local funds to assure continuity of action and work until the project is completed. When funds are to be provided by NRCS for a WS or RCD loan or a WS advance such funds must be obligated by NRCS before closing.

(6) Public bodies will be required to use bond counsel in accordance with subpart D of part 1780 of this chapter.

(b) When favorable action is not taken on a WS loan, WS advance, or RCD loan, the Rural Development

State Director will notify the NRCS State Conservationist and the applicant in writing and, if possible, arrange for a meeting of RUS and NRCS representatives with the applicant to explain the action. WS loans, WS advances, or RCD loans may be canceled before closing.

§ 1781.20 Disbursement of WS and RCD loan funds and WS advance funds.

(a) WS and RCD loan funds will be disbursed by the processing office in accordance with the applicable provisions of § 1780.45 of this chapter and RUS Bulletin 1781-1, paragraph (5). Funds will be made available to the borrower as needed for payment of development or other costs for which the loan is made. The processing office must determine that the payment is for an authorized purpose and is for benefits accrued to the borrower. This will require evidence from NRCS in accordance with the applicable provisions of RUS Bulletin 1781-1, "Memorandum of Understanding Between RUS and NRCS."

(b) WS advance funds may be disbursed in the same manner as WS loan funds if such funds are transferred to RUS by NRCS for disbursement or they may be disbursed by NRCS. When WS advance funds are disbursed by NRCS, payments from advance of funds will be reported to the Rural Development State Director each month to be reported to the Finance Office and charged to the borrower's account. This action will be taken in accordance with the applicable provisions of RUS Bulletin 1781-1 or RUS Bulletin 1781-2 and agreement between the NRCS State Conservationist and Rural Development State Director as follows:

(1) When a future water supply is being developed with NRCS, WS advance funds, the NRCS State Conservationist will send the Rural Development State Director a monthly report of funds disbursed. This will include three (3) copies of Form NRCS-AS-49a and 49b, "Contract Payment Estimate and Construction Progress Report," along with a transmittal Memorandum showing the sequential number (first, second, third, etc.) of the payment, the amount and date of payment, the